

REMARKS

Claims 50, 70 and 82 have been amended. New claim 83 has been added. The claim amendments and new claim find support throughout the instant application including the Drawings and claims as filed originally.

For instance, support for language added to claim 50 can be found at pg. 8, lines 9-22 (disclosing, for example, that new blood vessels can be made by adding a vascularization modulating agent and at least one angiogenic protein). On pgs. 4-5, bridging paragraph, “vascularization modulating agents” include VEGF. See also pg. 21, lines 13-25 (disclosing particular hematopoietic proteins).

New new matter has been added by virtue of the claim amendments or new claim 83.

Claim Objection

On pg. 3 of the Action, claim 83 was objected to on grounds that it is a substantial duplicate of claim 50. The objection has been rendered moot by this submission.

35 USC §102(b)

Claim 70 stands rejected as being anticipated by Takeshita et al. (*J. Clin. Invest.* 93: 662 (1994)). While Applicant respectfully disagrees, basis for the rejection has been addressed by amending the claim.

Claim 70 stands further rejected as being anticipated by USP 4,296,100 to Franco. While Applicant respectfully disagrees, basis for the rejection has been addressed by amending the claim.

Accordingly, reconsideration and withdrawal of the 102(b) rejections are requested.

35 USC §103

Claims 50, 55-63, and 65-66 stand rejected as unpatentable over Takeshita et al. (*J. Clin. Invest.* 93: 662 (1994)). While Applicants must respectfully disagree, basis for the rejection has been addressed.

Claim 50 has been amended to recite use of VEGF with at least one hematopoietic factor. That is, the claimed method uses VEGF in combination with one or more hematopoietic factors instead of VEGF alone. As cited, there is no teaching, suggestion or motivation in Takeshita to use a combination of VEGF and one or more hematopoietic factors to achieve formation of new blood vessels.

Accordingly, reconsideration and withdrawal of the rejection are requested.

Double-Patenting

Claims 50, 52, 55-63, 65-68, 70, 79 and 82-83 stand rejected under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully disagree, particularly in view of the instant amendment to claim 50. Reconsideration is requested.

Claims 50, 52, 55-63, 65-68, 70 and 82-83 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of co-pending application no. 10/696391. Applicants respectfully disagree. Claims 1-22 of the co-pending application no. 10/696391 were canceled by an amendment filed on July 20, 2004. Accordingly, the stated basis for the rejection is moot. Reconsideration of the provisional rejection is requested.

The Office also took the position on pgs. 11-12 of the Action that claims 50, 52, 55-63, 65-68, 70 and 82-83 are not patentably distinct from claims 1-22 of commonly assigned copending application no. 10/696391. Applicants respectfully disagree. Claims 1-22 of the copending application were canceled by an amendment filed on July 20, 2004. Thus the stated basis for the rejection is moot. Reconsideration of this basis for rejecting the instant application is requested.

Claims 72-79 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 24-30 and 47-48 of co-pending application No. 10/696391. Claims 24-30 and 47-48 in the co-pending case have been canceled. Accordingly, the stated basis for the provisional rejection is moot.

CONCLUSION

Applicants submit that all claims are allowable as written and respectfully request early favorable action by the Examiner. If the Examiner believes that a telephone conversation with Applicants' attorney would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned attorney of record.

Although it is not believed that any fee is needed to consider this submission, the Examiner is authorized to charge our Deposit Account No. 04-1105 should such fee be deemed necessary.

Respectfully submitted,

Date:

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